

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID STAMER, on behalf of)	
himself and all others similarly situated)	
)	
Plaintiff,)	Hon. John J. Tharp Jr.
)	
v.)	Case No. 1:15-cv-08277
)	
SEAS & ASSOCIATES, LLC; ABC)	
FINANCIAL SERVICES, INC.; and)	
BLAST FITNESS GROUP, LLC)	
)	
Defendants.)	
)	

**DEFENDANT ABC FINANCIAL SERVICES, INC.’S
MOTION TO DISMISS FIRST AMENDED COMPLAINT**

Defendant ABC Financial Services, Inc. (“ABC”), by and through its counsel, Martin W. Jaszczuk and Keith L. Gibson, submits this Motion to Dismiss Plaintiff’s First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

1. On August 1, 2016, Plaintiff filed a First Amended Complaint against ABC and two other defendants alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* and its regulations, 47 C.F.R. § 64.1200, *et seq.* (“TCPA”) (Dkt. 38).

2. Specifically, Plaintiff seeks to hold ABC liable for allegedly placing robocalls using an automatic telephone dialing system (“ATDS”) and an artificial or prerecorded voice in violation of the TCPA.

3. But Plaintiff’s First Amended Complaint fails to set forth properly-supported allegations of liability against ABC and fails to make properly-supported allegations indicating that an ATDS and an artificial or prerecorded voice were used to place the calls at issue.

4. In support of this Motion, ABC hereby incorporates by reference its Memorandum in Support of Defendant ABC Financial Services, Inc.'s Motion to Dismiss Plaintiff's First Amended Complaint, filed contemporaneously herewith.

WHEREFORE, ABC hereby requests that this Court grant its Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), and for any other relief this Court deems appropriate.

September 21, 2016

Respectfully submitted,

ABC FINANCIAL SERVICES, INC.

By: /s/ Martin W. Jaszczuk
Martin W. Jaszczuk (6277720)
Keith L. Gibson (6237159)
LOCKE LORD LLP
111 South Wacker Drive
Chicago, IL 60606
(312) 443-0610 (Phone)
mjaszczuk@lockelord.com
kgibson@lockelord.com

CERTIFICATE OF SERVICE

I, Martin W. Jaszczuk, an attorney, do hereby certify that I caused **DEFENDANT ABC FINANCIAL SERVICES, INC.’S MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT** to be served on all persons and entities registered and authorized to receive such service through the Court’s Case Management/Electronic Case Files (CM/ECF) system on September 21, 2016.

By: _____/s/ Martin W. Jaszczuk_____